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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/621,209	07/16/2003	Michael J. Czaplicki	1001-119	1091

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PONTIAC, MI 48342

EXAMINER

ZIMMERMAN, JOHN J

ART UNIT	PAPER NUMBER
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1775

DATE MAILED: 11/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/621,209

Applicant(s)

CZAPLICKI ET AL.

Examiner

John J. Zimmerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 August 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,5-14,16-17, 19 and 21-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1 and 5-10 is/are allowed.
- 6) ☒ Claim(s) 11-13,16,17,19 and 21-28 is/are rejected.
- 7) ☒ Claim(s) 14 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 20050818.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

SECOND OFFICE ACTION

Information Disclosure Statement

1. The Supplemental Information Disclosure Statement filed August 18, 2005 has been considered. An initialed form PTO-1449 is enclosed with this Second Office Action. The listings for documents EP 1134126 and WO 05/044630 have been crossed through because copies of these documents could not be found in the documents associated with this supplemental information disclosure statement. Regarding the long lists of references which have been cited on the information disclosure statements in this application file, citation of long lists of references may not comply with applicants' duty to disclose, see *Penn Yan Boats, Inc. v. Sea Lark Boats, Inc.*, 359 F. Supp. 948, aff'd 479 F. 2d. 1338. There is no duty for the Examiner to consider long lists of references to a greater extent than those ordinarily looked at during a regular search by the Examiner. Accordingly, the Examiner has considered these references in the same manner as references encountered during a normal search of Office search files. Regarding the "X" references (e.g. U.S. 3839080, DE 4430920, EP 1057671, etc. . .) cited in the supplied search report of corresponding PCT/US03/23115, the currently applied prior art in this application is more particularly relevant the claims of this application in their current form.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 11-13, 16 and 19 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schneider (U.S. Patent Application Publication 2002/0171260 A1) in view of Gahlau (U.S. Patent 4,655,496).

4. Schneider discloses a structure for an automotive vehicle comprising a wall of a first material, a layer of metal foam (e.g. aluminum foam) opposing the wall of the first material and a layer of structural expandable foam adhesive bonded to the wall and the layer of metal foam (e.g. see Figures 1-3; paragraph [0017] for the metal foam; see paragraphs [0019] and [0013] for the expandable foam adhesive). The listed adhesives include viscoelastic adhesives and the glass transition temperature would be inherent to the particular compositions. Schneider may differ from some of the claims in that Schneider may not require placement of the structure between a passenger compartment and an engine compartment of the automotive vehicle. Schneider, however, discloses that the structure is employable as a component in a conventional sound blocking baffle for vehicle construction (e.g. see paragraph [0035]) and one of ordinary skill in the art at the time the invention was made would understand that sound blocking baffles would be useful between the engine and passenger compartments in automotive vehicles because the

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engine compartment is a major source of vehicle sound. On this issue, Gahlau is applied simply to confirm that noise blocking between the engine and passenger compartments is indeed a major concern in automotive construction (e.g. see column 1, lines 5-22). In view of Gahlau, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the sound blocking baffles of Schneider between the engine and passenger compartments of automotive vehicles because the engine compartment is disclosed to be a major source of unwanted sound. Schneider may also differ from some claims in that Schneider may not require that the structure have a thickness of no greater than 50 mm or 75 mm. It is noted, however, that in view of vehicle weight limitations and space limitations, it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the thickness of the damping structure for minimal thickness while still retaining acceptable damping properties in order to save weight and space.

5. Claims 11-13, 16-17, 19 and 21-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Czaplicki (U.S. Patent 6,471,285) in view of Gahlau (U.S. Patent 4,655,496).

6. Czaplicki (different inventive entity) discloses a structure for an automotive vehicle comprising a wall of a first material, a layer of metal foam (e.g. aluminum foam) opposing the wall of the first material and a layer of structural expandable foam adhesive discontinuously bonded to the wall and the layer of metal foam (e.g. see Figures 1-3; column 3, lines 5-9 for the metal foam; see column 7, lines 43-49 the expandable foam adhesive). The listed adhesives in the patent include viscoelastic adhesives and the glass transition temperature would be inherent

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to the particular compositions. The discontinuous application of the foam adhesive extends to the peripheral edge of the metal foam in the figures (e.g. claim 3). Czaplicki may differ from some of the claims in that Czaplicki may not require placement of the structure between a passenger compartment and an engine compartment of the automotive vehicle. Czaplicki, however, discloses that the structure is employable as a component in a conventional sound blocking baffle for vehicle construction (e.g. see column 9, lines 6-11) and one of ordinary skill in the art at the time the invention was made would understand that sound blocking baffles would be useful between the engine and passenger compartments in automotive vehicles because the engine compartment is a major source of vehicle sound. On this issue, Gahlau is applied simply to confirm that noise blocking between the engine and passenger compartments is a major concern in automotive construction (e.g. see column 1, lines 5-22). In view of Gahlau, it would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the sound blocking baffles of Czaplicki between the engine and passenger compartments of automotive vehicles because the engine compartment is disclosed to be a major source of unwanted vehicle sound. Czaplicki may also differ from some claims in that Czaplicki may not require that the structure have a thickness of no greater than 50 mm or 75 mm. It is noted, however, that in view of vehicle weight limitations and space limitations, it would have been obvious to one of ordinary skill in the art at the time the invention was made to optimize the thickness of the reinforcing structure for minimal thickness while still retaining acceptable reinforcement properties in order to save weight and space.

Allowable Subject Matter

7. Claims 1 and 5-10 are allowed. Claim 14 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Reasons for the allowability of these claims are found in the First Office Action.

Response to Arguments

8. Applicant's arguments filed August 18, 2005 have been fully considered but they are not persuasive.

9. Applicant argues that the "Office Action's assertion about sound blocking baffles being useful between the engine and the passenger compartment is a very general and unsupported assertion that ignores the reality that a great number of considerations can be present when choosing a baffle or other structure for a particular location of a vehicle". In response to applicant's argument, it is noted that it must be assumed that one of ordinary skill in this art is familiar with automotive construction and its concerns. To argue that it would not be understood by one of ordinary skill in the automotive art that sound blocking baffles would be particularly useful between the engine compartment and the passenger compartment would be to attribute less than ordinary skill to one in the art. In any event, on this issue, Gahlau has been applied simply to confirm for applicant that blocking noise between the engine compartment and the passenger compartment of motor vehicles is indeed a known concern in the automotive art (e.g. see column 1, lines 5-22).

Conclusion

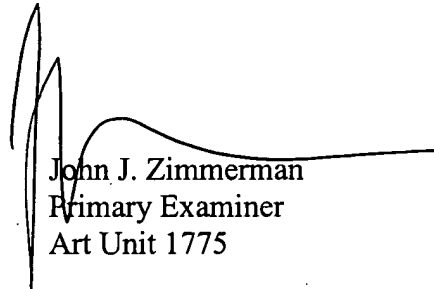
10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on August 18, 2005 prompted the new grounds of rejection presented in this Office action. U.S. Patent 4,655,496, applied in the rejections, above, was cited by applicant. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a). A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John J. Zimmerman whose telephone number is (571) 272-1547. The examiner can normally be reached on 8:30am-5:00pm, M-F. Supervisor Deborah Jones can be reached on (571) 272-1535. The fax phone number for the organization where this application or proceeding is assigned is (571) 273-8300.

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12. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



John J. Zimmerman
Primary Examiner
Art Unit 1775

jjz
November 22, 2005